



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,321	01/08/2007	Volker Brass	102132-36	1726
27388	7590	02/22/2010		
Hildebrand, Christa Norris McLaughlin & Marcus PA 875 Third Avenue, 8th Floor New York, NY 10022			EXAMINER HAMMONDS, MARCUS C	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			02/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/579,321	Applicant(s) BRASS ET AL.	
	Examiner MARCUS HAMMONDS	Art Unit 2617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-6, 8-11, and 13-16.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Kent Chang/
 Supervisory Patent Examiner, Art Unit 2617

/MARCUS HAMMONDS/
 Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because: the applicants arguments are not found persuasive. The examiner's final office action, mailed 11/20/2009, explains the rejection upon the broadly interpreted claims of the application

Consider claim 1, the applicant argues that the 3GPP TS 43.068 reference is only directed to VGCS, not SM. The applicant further argues that no motivation or reasoning exists as to why one of ordinary skill in the art would be able to interchange "talk group affiliation" used to transmit SM with a concatenated sequence of group ID and group call area ID when communicating SM in VGCS. The applicant further argues that Sanders, III et al teaches away from such modification, in col 2 lines 8-13. The examiner respectfully disagrees with the applicant. Although, the 3GPP TS 43.068 reference is only directed to VGCS, Sanders III et al provides VGCS with the enhancement of SMS within the cellular telephone network with infrastructure equipment of a GSM cellular platform. The examiner does not believe that Sanders III et al teaches away because both the 3GPP TS 43.068 and Sanders III et al references teach VGCS within a GSM cellular platform with Sanders III et al providing the SMS enhancement to the existing telephone system. The group call reference including the concatenated sequence of group ID and group call area ID an elementary identity for a group call according to the GSM cellular platform (see 3GPP TS 43.068 section 9.1-9.2). Both the "talk group affiliation" and the group call reference are used by the respective system as identities for the communication devices within the call, therefore one of ordinary skill in the art would be able to use the group call reference for identifying the originating and target devices for directing voice and SM to the group. Similarly, the examiner respectfully disagrees with the applicant's arguments for claim 13.

Consider claim 8, the applicant argues that the examiner fails to disclose a motivation for modifying Sanders III et al with 3GPP TS 43.068. The applicant further argues that these references fail to disclose or suggest that the uplink be held until the SM is sent completely to the network. The examiner respectfully disagrees with the applicants arguments. Motivation for combining Sanders III et al with 3GPP TS 43.068 is provided in independent claim 1 from which dependent claim 8 is directly dependent upon. 3GPP TS 43.068 explains a mobile station in a VGCS which seizes the uplink for exclusive access. In combination with the Sanders III et al reference which provides the enhancement of SMS to the VGCS, sending of an SM from an originating device must establish similar communication links, uplink and downlink, between the originating device and target devices. Similarly, the examiner respectfully disagrees with the applicant's arguments for claim 16.

Consider claim 9, the applicant argues that Sanders III et al teaches away, in col. 2 lines 8-13, from combination with 3GPP TS 43.068 with respect to claim 9. The examiner respectfully disagrees with the applicant. Although, the 3GPP TS 43.068 reference is only directed to VGCS, Sanders III et al provides VGCS with the enhancement of SMS within the cellular telephone network with infrastructure equipment of a GSM cellular platform. The examiner does not believe that Sanders III et al teaches away because both the 3GPP TS 43.068 and Sanders III et al references teach VGCS within a GSM cellular platform with Sanders III et al providing the SMS enhancement to the existing telephone system. Similarly, the examiner respectfully disagrees with the applicant's arguments for claim 15.